

REMARKS

Claims 1-26 and 29-31 are pending. Dependent claims 30 and 31 were added to replace canceled claims 3 and 28. No new matter has been added. Entry of the amendment is requested. Reconsideration is respectfully requested.

Claims 1-26 and 28-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Clark (US 6,400,276).

The Rejections

Applicants respectfully traverse the rejections.

Claim 1**Clark does not constitute prior art to the recited invention**

Parent application 10/601,950 claims benefit under 35 U.S.C. §119(e) of provisional application 60/429,478 filed November 26, 2002. The Office alleges that Applicants are only accorded the filing date of said provisional application 60/429,478 for the recited subject matter. The Applicants respectfully disagree.

Application 10/601,950 claims priority to application 09/414,249 filed October 7, 1999 (which further claims the benefit of provisional application 60/103,731 filed October 9, 1998). Applicants respectfully submit that for the recited subject matter they are entitled priority to at least October 7, 1999.

Application 09/414,249 (e.g., page 48, lines 10-12) discloses (with respect to ATMs) that images captured by a camera may be analyzed for the presence of certain objects which appear in the field of view of the camera, where these objects may be known types of criminal tools.

Application 10/601,950 discloses (with respect to ATMs) that it was known for criminals to use unauthorized reading devices to intercept user inputs to an ATM (e.g., page 6, lines 11-15; page 27, lines 3-6).

Applicants respectfully submit that a person of ordinary skill in the art of ATMs would have recognized that it would have been obvious for the "criminal tools" referred to in application 09/414,249 (at page 48, line 12) to have included the unauthorized reading devices used by criminals as mentioned in application 10/601,950.

US 6,367,695 to Mair (which is of record) points to a person of ordinary skill in the art at April 6, 1999 (filing date of Mair's GB 9,907,639) knowing that false card readers were used with ATMs by criminals. Note Mair at col. 5, line 40. Even Clark (e.g., col. 1, lines 65-67) points to a person of ordinary skill in the art at June 29, 1999 (filing date of Clark's GB 9,915,189) knowing that alien devices were placed by criminals at card entry/exit slots of ATMs.

A declaration under 37 C.F.R. § 1.132 is submitted herewith. The declaration is from a person with actual knowledge of the relevant art and the level of ordinary skill in the art at the time of October 7, 1999 (i.e., filing date of application 09/414,249). The declaration further establishes that a person of ordinary skill in the ATM art at October 7, 1999 would have recognized an unauthorized reading device as a known type of "criminal tool" that could be used to attack an automated banking machine referred to in application 09/414,249. As a result, Applicants are entitled to an effective filing date of at least October 7, 1999.

Furthermore, it is well established that Applicants' "possession of what is shown carries with it possession of variations and adaptations which would have been obvious, at the same time, to one of ordinary skill in the art" (e.g., MPEP § 715.02). *In re Spiller*, 182 USPQ 614, 620 (CCPA 1974). That is, Applicants are entitled at their effective filing date to a reduction to

practice of any variation of their disclosed subject matter which would have been obvious at that time to one of ordinary skill in the art from their disclosed subject matter. In other words, Applicants are entitled at their effective filing date to a reduction to practice not only the invention disclosed, but also to any invention obvious therefrom. Possession of one invention brings with it all things obvious therefrom. Applicants submit that Clark also shows that as of Clark's filing date the use of unauthorized interception devices on ATMs was well known (e.g., Clark at col. 1, lines 25-31). Thus, Clark shows that prior to his filing date it would also have been plainly obvious to one skilled in the ATM art that an unauthorized reading device would constitute "a criminal tool used to attack an automated banking machine". Therefore, Applicants are further entitled to a reduction to practice at least as early as their priority date of October 7, 1999 for any additional (e.g., narrower) subject matter which would have been obvious from application 09/414,249 to one having ordinary skill in the art at the time of its filing.

For purposes of 35 U.S.C. § 102(e) Clark has a filing date of June 8, 2000. Applicants' evidence establishes an effective filing date of at least October 7, 1999. Alternatively, Applicants have shown that they reduced to practice what is currently claimed as of October 7, 1999. Thus, Clark does not constitute prior art to the recited subject matter of at least claim 1.

Additionally, even if Clark were to somehow (for sake of argument) constitute prior art, Clark still would not anticipate claim 1. Thus, Applicants respectfully submit that the rejection should be withdrawn.

It should be noted that because Clark does not constitute prior art in light of Applicants' priority application 09/414,249, the effect of Applicants' even earlier provisional application 60/103,731 has not been argued at this time. Applicants reserve the right to later use the even earlier filing date (October 9, 1998) of this provisional application.

Claim 9

Clark does not teach or suggest detecting a triggering event associated with a sensed condition of an ATM, or capturing a second image of a card accepting opening in response to the detection. Nor does Clark teach or suggest, in response to a level of change in image data, executing a test (i.e., sensing for radiation and/or sensing for vibration) to determine if an unauthorized card reading device has been installed. At best, Clark merely generates an alarm.

The Office has not established a prima facie case of anticipation or obviousness. The record is absent a teaching, suggestion, motivation, or valid reason for one of ordinary skill in the art at the time of Applicants' invention to have produced the features, relationships, and steps of claim 9.

Claim 29

Clark does not teach taking a programmed action responsive to a predetermined level of change between images, where the programmed action includes both sending captured image data to a remote system address and executing a test to determine if an unauthorized device has been installed. Where does Clark send captured image data, especially in response to a change between user interface images? Clark doesn't, especially at relied upon col. 3, lines 15-20. Where does Clark at said relied upon section even mention "image" or "images"? Clark doesn't. At best, Clark merely generates an alarm. Nor does Clark check for an unauthorized device. Clark does not anticipate claim 29. Thus, no amendment thereto is necessary.

The Dependent Claims

Each of the dependent claims depends directly or indirectly from an independent claim. The independent claims have been shown to be allowable. Thus, it is asserted that the dependent claims are allowable on the same basis. Furthermore, each of the dependent claims recites additional specific features and relationships that further patentably distinguish the claimed invention over the applied art.

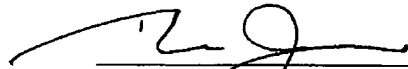
For example, Clark does not teach or suggest sending image data to at least one remote system address responsive to a level of change in image data; executing a test to determine if an unauthorized device has been installed responsive to a level of change in image data; sensing radiation; sensing vibratory properties; a triggering event that includes sensing a person in proximity to the machine beyond a set period; a triggering event that includes sensing a failed attempt by a card reader; a triggering event that includes sensing an object in a card accepting opening; a triggering event that includes sensing opening of a shutter previously blocking a card accepting opening; a triggering event that includes sensing input to a key; a triggering event that includes presenting cash that is not taken; a triggering event that includes not taking a transaction receipt; capturing image data with another imaging device responsive to detecting a triggering event, especially with a camera having a different field of view; moving image data from temporary data storage to more permanent data storage responsive to detecting a triggering event; capturing first image data with a first imaging device and capturing second image data with a second imaging device; and sending captured image data responsive to a determination that an unauthorized card reading device has been installed.

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Conclusion

Applicants respectfully submit that this application is in condition for allowance. The undersigned is willing to discuss any aspect of the Application by phone.

Respectfully submitted,



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